

File No. 583

(Reprint of File No. 391)

Substitute Senate Bill No. 490
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 23, 1998

AN ACT CONCERNING ELIGIBILITY FOR THE PRETRIAL
ACCELERATED REHABILITATION PROGRAM AND THE
SUSPENSION OF THE OPERATOR'S LICENSE OF PERSONS
INVOLVED IN FATAL ACCIDENTS.

Be it enacted by the Senate and House of
Representatives in General Assembly convened:

1 Section 1. Section 54-56e of the general
2 statutes, as amended by section 10 of public act
3 97-248, is repealed and the following is
4 substituted in lieu thereof:

5 (a) There shall be a pretrial program for
6 accelerated rehabilitation of persons accused of a
7 crime or crimes or a motor vehicle violation or
8 violations for which a sentence to a term of
9 imprisonment may be imposed, which crimes or
10 violations are not of a serious nature.

11 (b) The court may, in its discretion, invoke
12 such program on motion of the defendant or on
13 motion of a state's attorney or prosecuting
14 attorney with respect to an accused (1) who, the
15 court believes, will probably not offend in the
16 future, (2) who has no previous record of
17 conviction of a crime or of a violation of section
18 14-196, subsection (c) of section 14-215, section
19 14-222a, subsection (a) of section 14-224 or

20 section 14-227a, (3) who has not previously been
21 adjudged a youthful offender under the provisions
22 of sections 54-76b to 54-76n, inclusive, and (4)
23 who states under oath, in open court or before any
24 person designated by the clerk and duly authorized
25 to administer oaths, under the penalties of
26 perjury that he has never had such program invoked
27 in his behalf, provided the defendant shall agree
28 thereto and provided notice has been given by the
29 accused, on a form approved by rule of court, to
30 the victim or victims of such crime or motor
31 vehicle violation, if any, by registered or
32 certified mail and such victim or victims have an
33 opportunity to be heard thereon. Any defendant who
34 makes application for participation in such
35 program shall pay to the court an application fee
36 of thirty-five dollars.

37 (c) This section shall not be applicable: [to]
38 (1) TO any person charged with a class A or class
39 B felony or a violation of section 14-227a,
40 subdivision (2) of section 53-21, section 53a-56b,
41 53a-60d, 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a
42 or 53a-72b, [or] (2) TO ANY PERSON CHARGED WITH A
43 CRIME OR MOTOR VEHICLE VIOLATION WHO, AS A RESULT
44 OF THE COMMISSION OF SUCH CRIME OR MOTOR VEHICLE
45 VIOLATION, CAUSES THE DEATH OF ANOTHER PERSON, (3)
46 to any person accused of a family violence crime
47 as defined in section 46b-38a who [(1)] (A) is
48 eligible for the pretrial family violence
49 education program established under section
50 46b-38c, or [(2)] (B) has previously had the
51 pretrial family violence education program invoked
52 in his behalf, [. Unless] OR (4) UNLESS good cause
53 is shown, [this section shall not be applicable]
54 to any person charged with a class C felony.

55 (d) Any defendant who enters such program
56 shall pay to the court a participation fee of one
57 hundred dollars. Any defendant who enters such
58 program shall agree to the tolling of any statute
59 of limitations with respect to such crime and to a
60 waiver of his right to a speedy trial. Any such
61 defendant shall appear in court and shall, under
62 such conditions as the court shall order, be
63 released to the custody of the Office of Adult
64 Probation, except that, if a criminal docket for
65 drug-dependent persons has been established
66 pursuant to section 51-181b, as amended by [this
67 act] PUBLIC ACT 97-248, in the judicial district,

68 such defendant may be transferred, under such
69 conditions as the court shall order, to the court
70 handling such docket for supervision by such
71 court. If the defendant refuses to accept, or,
72 having accepted, violates such conditions, his
73 case shall be brought to trial. The period of such
74 probation or supervision, or both, shall not
75 exceed two years. If the defendant has reached the
76 age of sixteen years but has not reached the age
77 of eighteen years, the court may order that as a
78 condition of such probation the defendant be
79 referred for services to a youth service bureau
80 established pursuant to section 17a-39, provided
81 the court finds, through an assessment by a youth
82 service bureau or its designee, that the defendant
83 is in need of and likely to benefit from such
84 services.

85 (e) If a defendant released to the custody of
86 the Office of Adult Probation satisfactorily
87 completes his period of probation, he may apply
88 for dismissal of the charges against him and the
89 court, on finding such satisfactory completion,
90 shall dismiss such charges. If the defendant does
91 not apply for dismissal of the charges against him
92 after satisfactorily completing his period of
93 probation, the court, upon receipt of a report
94 submitted by the Office of Adult Probation that
95 the defendant satisfactorily completed his period
96 of probation, may on its own motion make a finding
97 of such satisfactory completion and dismiss such
98 charges. If a defendant transferred to the court
99 handling the criminal docket for drug-dependent
100 persons satisfactorily completes his period of
101 supervision, the court shall release the defendant
102 to the custody of the Office of Adult Probation
103 under such conditions as the court shall order or
104 shall dismiss such charges. Upon dismissal, all
105 records of such charges shall be erased pursuant
106 to section 54-142a. An order of the court denying
107 a motion to dismiss the charges against a
108 defendant who has completed his period of
109 probation or supervision or terminating the
110 participation of a defendant in such program shall
111 be a final judgment for purposes of appeal.

112 Sec. 2. Section 14-111 of the general statutes
113 is repealed and the following is substituted in
114 lieu thereof:

115 (a) No provision of this chapter shall be
116 construed to prohibit the commissioner from
117 suspending or revoking any registration or any
118 operator's license issued under the provisions of
119 any statute relating to motor vehicles, or from
120 suspending the right of any person to operate a
121 motor vehicle in this state, or from suspending or
122 revoking the right of any nonresident to operate,
123 or the right to any operation of, any motor
124 vehicle within this state, for any cause that he
125 deems sufficient, with or without a hearing.
126 Whenever any certificate of registration or any
127 operator's license or both are suspended or
128 revoked, all evidence of the same shall be
129 delivered forthwith to the commissioner or to any
130 person authorized by him to receive the same, and
131 the commissioner or any person authorized by him
132 may seize such certificate of registration or
133 operator's license and all evidence of the same.
134 Except as otherwise provided by law, the
135 commissioner may cancel any such suspension or
136 revocation and may return such certificate of
137 registration or the operator's license either with
138 or without an additional fee, provided no
139 certificate of registration or operator's license
140 which has been suspended for any definite term,
141 except as provided in subsection (k) of this
142 section, shall be returned until the term of
143 suspension has been completed. Any appeal taken
144 from the action of the commissioner shall not act
145 as a stay of suspension or revocation except with
146 his consent. No service of process shall be
147 necessary in connection with any of the prescribed
148 activities of the commissioner, but a notice
149 forwarded by bulk certified mail to the address of
150 the person registered as owner or operator of any
151 motor vehicle as shown by the records of the
152 commissioner shall be sufficient notice to such
153 person that the certificate of registration or
154 operator's license is revoked or under suspension.
155 (b) Whenever the holder of any motor vehicle
156 operator's license has been convicted or has
157 forfeited any bond taken or has received a
158 suspended judgment or sentence for any of the
159 following violations, the commissioner shall,
160 without hearing, suspend his operator's license as
161 follows: For a first violation of subsection (a)
162 of section 14-224 or section 14-110, 14-215 or

163 53a-119b, for a period of not less than one year
164 and, for a subsequent violation thereof, for a
165 period of not less than five years; for a
166 violation of subsection (a) of section 14-222, for
167 a period of not less than thirty days nor more
168 than ninety days and, for a subsequent violation
169 thereof, for a period of not less than ninety
170 days; for a first violation of section 14-145, for
171 a period of not less than six months and, for a
172 subsequent violation thereof, for a period of not
173 less than five years; for a violation of
174 subsection (b) of section 14-224, for a period of
175 not less than ninety days; for a first violation
176 of subsection (b) of section 14-147, for a period
177 of not less than ninety days and, for a subsequent
178 violation thereof, for a period of not less than
179 five years; for a first violation of subsection
180 (c) of section 14-147, for a period of not less
181 than thirty days and, for a subsequent violation
182 thereof, for a period of not less than one year.

183 (c) Repealed by P.A. 95-260, S. 23, 24,
184 effective June 13, 1995.

185 (d) THE COMMISSIONER SHALL NOT SUSPEND THE
186 LICENSE OF ANY OPERATOR CONCERNED IN ANY MOTOR
187 VEHICLE ACCIDENT RESULTING IN THE DEATH OF ANY
188 PERSON SOLELY BECAUSE SUCH DEATH HAS OCCURRED,
189 UNLESS THE FACTS AS ASCERTAINED BY THE
190 COMMISSIONER, AFTER A HEARING, INDICATE
191 RESPONSIBILITY ON THE PART OF SUCH OPERATOR FOR
192 SUCH ACCIDENT, AND, IF AFTER SUCH HEARING, THE
193 COMMISSIONER FINDS THAT SUCH OPERATOR HAS CAUSED
194 OR CONTRIBUTED TO SUCH DEATH THROUGH THE VIOLATION
195 OF ANY PROVISION OF THIS CHAPTER OR OF CHAPTER 248
196 OR THROUGH NEGLIGENCE OR CARELESSNESS, SUCH
197 SUSPENSION SHALL BE FOR NOT LESS THAN ONE YEAR. A
198 MOTOR VEHICLE PARKED IN A MANNER PRESCRIBED BY LAW
199 SHALL NOT BE DEEMED TO BE CONCERNED IN SUCH
200 ACCIDENT.

201 [(d)] (e) Notice of the revocation or
202 suspension of any license or registration shall be
203 transmitted forthwith by the commissioner to the
204 chief of police of the city or the prosecuting
205 officers or selectmen of the town or borough in
206 which the person whose license or registration
207 certificate so suspended or revoked resides.

208 [(e)] (f) The commissioner may hold hearings
209 in each judicial district on all matters arising
210 within such judicial district under the provisions

211 of this chapter. He may use any court room, when
212 the same is not in use by the court, for the
213 purpose of holding hearings and may require the
214 attendance of any officer authorized to serve
215 criminal process, and such officer shall be under
216 the direction of the commissioner. The fees of
217 witnesses and officers shall be the same as in
218 criminal cases before the Superior Court and shall
219 be paid by the Treasurer upon order of the
220 Comptroller.

221 ~~[(f)]~~ (g) The Superior Court may, by mandamus
222 or other appropriate remedy, upon application of
223 the commissioner, enforce any order issued by the
224 commissioner under the provisions of this section.

225 ~~[(g)]~~ (h) In case of failure forthwith to
226 return any certificate of registration, number
227 plate or plates of any motor vehicle or operator's
228 license upon order of the commissioner, no
229 certificate of registration shall be issued for
230 any motor vehicle licensed by the certificate not
231 returned and no operator's license shall be issued
232 to the negligent party within a period of one year
233 except by an order of the commissioner.

234 ~~[(h)]~~ (i) When any person who does not hold a
235 Connecticut operator's license is convicted or has
236 his case nulled or is given a suspended judgment
237 or sentence for a violation of any provision of
238 section 14-36, 14-110, 14-145, subsection (b) of
239 section 14-147, 14-215, 14-224, subsection (a) of
240 section 14-227a or 14-229, the commissioner shall
241 not issue to him a nonresident or resident
242 operator's license during such period as the
243 commissioner may determine, which period shall not
244 be less than the period provided for suspension in
245 subsection (b) of this section or in subsection
246 (h) of section 14-227a. When any person is
247 convicted or has his case nulled or is given a
248 suspended judgment or sentence for any violation
249 of any of the provisions of section 14-12, the
250 commissioner shall not issue registration for any
251 motor vehicle owned by such person until thirty
252 days after application therefor.

253 ~~[(i)]~~ (j) Whenever any person has been
254 prosecuted for perjury or false statement under
255 the provisions of section 14-110 and the case has
256 been nulled or a suspended sentence or judgment
257 entered, and when the false statement refers to
258 the name or age or a former suspension or former

259 conviction of the applicant, the commissioner
260 shall suspend or withhold such applicant's license
261 for a period of not less than thirty days plus the
262 period of time wherein the applicant was in
263 possession of the void license.

264 [(j)] (k) Before returning any registration
265 certificate or any operator's license which has
266 been suspended or revoked, the commissioner may
267 require the owner of the motor vehicle or the
268 operator to file with him a surety company bond,
269 conditioned as he directs and taken to the state,
270 as a condition precedent to the return of such
271 certificate or operator's license.

272 [(k)] (l) Whenever any person has been
273 convicted of any violation of section 14-110,
274 14-145, 14-147, 14-215, 14-219, 14-222, 14-224 or
275 14-229 or has had his case nolledd or judgment or
276 execution suspended or has forfeited his bond, and
277 his license has been suspended or revoked by the
278 commissioner, he may make application to the
279 commissioner for the reversal of such suspension
280 or revocation. Such application shall be in
281 writing and shall state specifically the reasons
282 why such applicant believes that he is entitled to
283 such reversal. If the commissioner determines to
284 grant such hearing, he may require the applicant
285 to file with him a trial fee, the amount of which
286 shall be discretionary with the commissioner. Upon
287 the deposit of such trial fee, the commissioner
288 may make such further investigation as he deems
289 necessary, may hear evidence presented and may
290 return the registration certificate or operator's
291 license to the applicant unconditionally or upon
292 condition. The commissioner is further empowered
293 to return part or all of such trial fee to such
294 applicant after an opinion has been rendered by
295 him. The amount of all trial fees not so returned
296 shall be deposited at least once every three
297 months with the State Treasurer. The commissioner
298 may require such application, fee and hearing as a
299 condition precedent to the return of any license
300 suspended or revoked.

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER sSB 490

STATE IMPACT	Potential Cost (General Fund), Significant Cost (Transportation Fund), see explanation below
MUNICIPAL IMPACT	Minimal Cost, see explanation below
STATE AGENCY(S)	Criminal Justice Agencies, Department of Motor Vehicles

EXPLANATION OF ESTIMATES:

STATE AND MUNICIPAL IMPACT: The bill would result in enhanced criminal penalties thereby increasing pressures on the criminal justice system. Over the long term, these pressures would lead to a need for increased criminal justice resources, especially for incarceration and community supervision. It should be noted that SHB 5021 (the revised Appropriations Act for FY 1998-99 as favorably reported by Appropriations) includes \$5.4 million to address overcrowding in the state's prisons and jails. In addition, the Public Defender Services Commission is currently under suit by the American Civil Liberties Union relating to the adequacy of funding for public defenders. Increases in criminal penalties will at some point require additional funds for criminal justice agencies in order to maintain adequate enforcement of other criminal laws.

Accelerated rehabilitation (AR) cases are among the least costly of probation supervision programs. About one-third of the cases that are granted AR are felonies. The number of AR cases that involve the crimes prohibited by the bill is not known. The

successful completion rate is about the same for felonies as it is for misdemeanors.

Since the bill restores the Fatal Accident Reporting System program (FARS), the Commissioner of Motor Vehicles could be expected to handle 300 to 400 cases a year. As a result the Department of Motor Vehicles (DMV) would require 2 Administrative Hearing Attorneys to present cases, (\$107,354) 1 Legal Services Analyst, (\$45,962) and 1 hearing reporter, (\$31,721). It would also require funding for 2 additional hearing officers, who are paid on a per diem basis, (\$95,976), funding for Other Expenses including additional space to hold hearings, (\$20,000), funding to meet computer needs, (\$10,500), and one-time Equipment costs, \$9,000. Thus, costs to the DMV could total \$320,513. Please note that in the past the courts have requested the DMV to postpone or continue the cases until completion of criminal prosecution.

Costs to the state and local police departments for submitting investigation records to the DMV are expected to be minimal and absorbable.

House "A" which adds the provision regarding the motor vehicle commissioner's authority to suspend the license of a driver involved in a fatal motor vehicle accident could have the DMV costs stated above.

* * * * *

OLR AMENDED BILL ANALYSIS

sSB 490 (as amended by House "A")*

AN ACT CONCERNING ELIGIBILITY FOR THE PRETRIAL ACCELERATED REHABILITATION PROGRAM

SUMMARY: This bill makes people charged with a crime or motor vehicle violation who, as a result of committing the crime or violation, cause the death of another person ineligible for the accelerated rehabilitation (AR) program. Because people charged with a class A or B felony or manslaughter in the second degree with a motor vehicle are already ineligible for AR, the bill makes those charged with the following offenses ineligible: manslaughter in the

second degree, manslaughter in the second degree with a firearm, misconduct with a motor vehicle, criminally negligent homicide, and negligent homicide with a motor vehicle.

The bill grants the motor vehicles commissioner explicit authority to suspend the drivers license of a person the commissioner finds, after a hearing, has caused or contributed to the death of a person in connection with a motor vehicle accident because of negligence, carelessness, or a violation of motor vehicle laws. It requires the suspension be for at least one year. It specifies that the commissioner may not take such action against the driver of a legally parked vehicle involved in a fatal motor vehicle accident.

*House Amendment "A" adds the provision explicitly authorizing the motor vehicle commissioner to suspend the license of a driver involved in a fatal motor vehicle accident.

EFFECTIVE DATE: October 1, 1998

BACKGROUND

Accelerated Rehabilitation

The AR program is a pretrial diversion program for people accused of most crimes or motor vehicle violations. People accused of class A or B felonies, driving under the influence, and certain other serious offenses are not eligible. Those accused of a class C felony are eligible only for "good cause." The program is unavailable for people who previously have been convicted of a crime or certain motor vehicle violations or were previously given youthful offender status. A person can only be in the AR program once. Another condition of granting AR is that the court believes the defendant will probably not offend in the future. Otherwise the court has complete discretion as to whether or not to place someone on AR.

The AR program participants waive their right to a speedy trial. The court places them under the supervision of the Office of Adult Probation (OAP) for up to two years under whatever conditions it orders. If the defendant successfully completes the program,

the charges against him are dismissed by the court and his records are erased. If he violates a condition of the program, he is brought to trial on the original charges.

Manslaughter in the Second Degree

A person commits this offense when he (1) recklessly causes the death of another person or (2) intentionally causes or aids another person to commit suicide other than by force, duress, or deception. It is a class C felony punishable by up to 10 years in prison, a fine of up to \$10,000, or both. A person acts recklessly when he is aware of and consciously disregards a substantial and unjustifiable risk that a death could occur. The risk must be such that disregarding it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation (CGS Sec. 53a-56).

Manslaughter in the Second Degree with a Firearm

A person is guilty of this offense when he commits manslaughter in the second degree and used, or is armed with and threatens the use of, or displays or represents by his words or conduct that he possess a pistol, revolver, shotgun, rifle, machine gun, or other firearm. It is a class C felony with a mandatory minimum of one year in prison (CGS Sec. 53a-56a).

Misconduct with a Motor Vehicle

A person commits this offense when he causes someone's death by criminally negligent operation of a motor vehicle. It is a class D felony punishable by up to five years in prison, or to a \$5,000 fine, or both. Criminal negligence is failing to perceive a substantial and unjustifiable risk that a death could occur (CGS Sec. 53a-57).

Criminally Negligent Homicide

A person commits this offense when, with criminal negligence, he causes a death other than by a motor vehicle. It is a class A misdemeanor punishable by up to one year in prison, up to a \$2,000 fine, or both (CGS Sec. 53a-58).

Negligent Homicide with a Motor Vehicle

A person commits this offense when he causes someone's death by negligently operating a motor vehicle. The penalty is up to a \$1,000 fine, imprisonment of up to six months, or both (CGS Sec. 14-222a).

BACKGROUND**Authority to Suspend License**

The motor vehicle commissioner has broad authority to suspend or revoke an operator's license for any cause he deems sufficient (CGS Sec. 14-111(a); State v. Barber, 24 Conn. Sup. 346, 350 (1962)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 34 Nay 1